

## **REMARKS**

Claims 1-43 are pending and under consideration in the above-identified application.

In the Office Action dated July 29, 2008, the Examiner rejected claims 1-43.

With this Amendment, claims 1, 2, 4, 5, 7, 9, 10, 12, 13, 14, 16, 18, 21, 24, 26, 27, 29 - 31, 34, 37, 40, 41 and 43 were amended. No new matter had been introduced as a result of the amendments.

### **I. Objection To Specification**

The Examiner objected to various errors in the Specification. Per the Examiner's suggestions, the Applicant amended the Specification to correct the errors. No new matter was introduced as a result of the amendments. Accordingly, the above objection is now moot. As such, Applicant respectfully requests that the above rejection be withdrawn.

### **II. Double Patenting Rejection of Claims**

Claims 1-43 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent Application No. 10/596,139. This will be revisited if and when claims from both applications are allowed. Applicants reserve the right to file an appropriate terminal disclaimer in either application.

### **III. 35 U.S.C. § 112 Indefiniteness Rejection of Claims**

Claims 1-43 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, Applicant amended the claim 1, 2, 9, 10, 12-14, 26, 27, 30, 31, 40, 31 and 43 to read high molecular weight compound in order to correct a translation error. Applicant also amended the claim language in claims 4 and 16 to properly list derivatives for starch. Additionally, claims 7, 18, 21, 24, 34 and 37 were amended to contain proper Markush language.

Claim 24 was amended to delete one the second occurrence of “organic phosphorus compound.”

Accordingly, the above rejections are now moot. As such, Applicant respectfully requests the above rejection be withdrawn.

**IV. 35 U.S.C. § 102 Anticipation Rejection of Claims**

Claims 1-22, 24-34 and 36-43 are rejected under 35 U.S.C. § 102(b) as being anticipated by Yamada et al., JP 2003 192925 (U.S. Publication No. 2007 0257239 serving as English translation). Applicant respectfully traverses this rejection.

U.S. Publication No. 2007 0257239 is not a proper English translation of JP 2003 192925. U.S. Publication No. 2007 0257239 claims priority to JP 2003 403478 and JP 2003 403479 and this is a combination of both disclosures. A copy of the English translation of JP 2003 192925 is attached.

The claims require a biodegradable resin composition that includes at least one biodegradable organic high molecular weight compound that is cellulose or a derivate thereof. The presence of cellulose or a derivate thereof in the biodegradable resin improves the preservation characteristics of the biodegradable resin composition. Specification, Pages 42, 48 & Table 2.

As set forth in the supplied English translation, Yamada et al. teaches a resin that contains at least one biodegradable polysaccharide. Yamada et al., Abstract. Yamada et al. does not, however, teach or even fairly suggest a biodegradable resin composition that has improved preservation characteristics as required by the claims. Accordingly, Yamada et al. fails to teach or even fairly suggest all the requirements of claims 1-22, 24-34 and 36-43. Thus, the claims are patentable over the cited reference. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

**V. 35 U.S.C. § 103 Obviousness Rejection of Claims**

Claims 1-43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamada et al. in view of Yoshida et al. (U.S. Publication No. 2002 0151631). Applicant respectfully traverses this rejection.

Yoshida et al. teaches nitrogen oxides, nitric compounds and nitrous compounds as flame retardants in polymeric compositions. Yoshida et al., Abstract. Yoshida et al. fails to teach or even fairly suggest a flame retardant material that is biodegradable as required by the claims.

As discussed above, Yamada et al. fails to teach or even fairly suggest a resin with of cellulose or a derivate thereof in the biodegradable resin that improves the preservation characteristics of the biodegradable resin composition. As such, taken either singularly or in combination with each other, the cited reference fail to teach or even fairly suggest all the requirements of the claims. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

**VI. Conclusion**

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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